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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,859	02/12/2004	Chuck Buis	CQC - 1 - P	6112

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BOWMAN GREEN HAMPTON & KELLY, PLLC
501 INDEPENDENCE PARKWAY, SUITE 201
CHESAPEAKE, VA 23320

EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
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3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/777,859	Applicant(s) BUIS ET AL.	
	Examiner Justin M. Larson	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

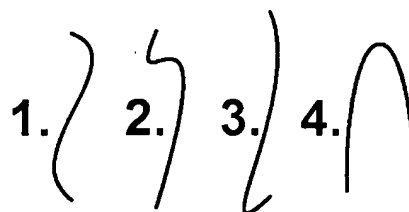
1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The term "recurvate" as used in claims 1, 12, and 13 is never mentioned in Applicant's originally filed disclosure. Applicant originally mentioned that the third slots had "mustache" shapes but never "recurvate" shapes.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8 and 10-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 12, and 13 all recite a third slot having a "recurvate" shape. The term "recurvate" generally means something is bent or curved backward. Examiner is of the position that any of the following configurations can be considered "recurvate" as they are bent back on themselves:



It is therefore unclear as to what structural configuration the term "recurvate" is intended to impose in the claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Rogers et al. (US 6,010,045 A).

Regarding claim 1, Rogers et al. disclose a holster holder for securing a holster to a wearer in a desired attitude, the holster holder comprising a plate (11); two arcuate slots (19) and a recurvate slot (20) wherein each slot is capable of allowing fastening means (15,17) to extend therethrough, said recurvate slot being below the others; wherein the three fastening means are capable of engaging three points on a holster (10) and the holster is rotatably mounted to the plate (abstract).

Regarding claim 3, Examiner is of the position that the bolts (15,17) of Rogers et al. are effectively screws as they mate with T-nuts (16,18) in a screw-like fashion.

Regarding claim 5, the plate of Rogers et al. includes two more slots through which fastening means (13) are used to attach a belt support (12) for receiving or securing the plate to a user's belt.

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6. Claim 10 is rejected under 35 U.S.C. 102(e) as being anticipated by Parsons (US 2004/0188477 A1).

Parsons discloses a holster holder for securing a holster (22) to a wearer in a desired attitude, the holster holder comprising: a plate (40); means (30) for attaching a holster to a side of the plate ([0024]); and at least two slots (48a,48b) defined through the plate for receiving and securing a wearer's belt to the plate; and repositionable (removable = repositionable) adjustment means (54) extending through each slot that would allow for adjusting a relative height and angle of the plate with respect to the belt.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al. (US 6,588,640 B1) in view of Nichols (US 5,265,781 A).

Rogers et al. disclose a holster holder (Figure 2) for securing a holster to a wearer in a desired attitude, the holster holder comprising a plate and three fastening slots (28) capable of allowing fastening means to extend therethrough, one fastening slot being below the others; and two belt slots (47). Rogers et al. fail to disclose the the two upper slots being arcuate such that the holster can rotate with respect to the plate, the lowest slot having a recurvate shape, and also fail to specifically state that fastening

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means in the form of screws are passed through the slots for attaching a holster to the plate.

Nichols, however, also discloses a holster holder comprising a plate with a series of slots and teaches that fasteners (screws 44) pass through the slots to attach a holster to the plate. Nichols also teaches that the slots (40,42) are arcuate such that the holster can rotate with respect to the plate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the holster holder of Rogers et al. by forming the three slots with an arcuate shape and attaching a holster to the plate with screws, as taught by Nichols, so that a user could rotate the holster with respect to the plate in order to adjust the angle at which a gun was held at their side. Regarding the lowest slot, Examiner considers the modified lowest slot of Rogers et al. to have a recurvate shape (see configuration #4 in paragraph 3 above).

9. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al. ('640) in view of Nichols as applied to claim 1 above, and further in view of Beletsky (US 5,875,944 A).

Regarding claim 2, the modified Rogers et al. holster holder includes the claimed features except for the plate having a series of indents formed therein for selective positioning of the holster on the plate.

Beletsky, however, also discloses a holster holder having arcuate slots (23, 24) and teaches that the plate also has indents (23T,23B,24T,24B) formed with the slots that allow the holster to be adjusted to predefined angles based upon the positioning of fasteners (16,17) in the indents. It would have been obvious to one having ordinary skill

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in the art at the time the invention was made to further modify the modified Rogers et al. holster holder by including a series of indents in the plate along with the already existing arcuate slots, as taught by Beletsky, so that a user could selectively adjust the holster to a predefined angle.

Regarding claim 4, the heads of the screws of the modified Rogers et al. holster holder would engage the selected indents of the plate during the normal use and operation of the holster holder.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al. ('640) in view of Nichols as applied to claim 5 above, and further in view of Parsons.

The modified Rogers et al. holster holder includes the claimed features except for each of the two belt slots comprising adjustment means for adjusting the height and angle at which the belt passes through the slot.

Parsons, however, teaches that it is already known in the art to provide belt slots with adjustment means (54) that serve to change the length of the slots [0031]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to also include adjustment means in the belt slots of the modified Rogers et al. holster holder, as taught by Parsons, so that a user could adjust the length of the belt slots to accommodate different sized belts, or to adjust the height and angle at which the belt passes through the slot. All of these functionally intended uses would be allowed by the presence of such adjustment means.

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11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al. ('640), Nichols, and Beletsky as applied to claim 2 above in view of Baker (US 3,731,858 A).

The modified Rogers et al. holster holder includes the claimed features except for there being three belt receiving slots wherein two of the belt receiving slots are formed in a vertical manner such that one is above the other.

Baker, however, teaches that it is old and well known in the art to provide three belt slots on a holster device, two of the belt slots being arranged in a vertical manner such that the holster can be held at various angles depending on which of the belt slots are used to support the holster on a belt. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include three belt slots on the modified Rogers et al. holster holder, as taught by Baker, in order to increase the adjustability of the holster and allow the user to selective position the holster in a greater number of orientations.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al. ('640), Nichols, Beletsky, and Baker as applied to claim 7 above in view of Parsons.

The modified Rogers et al. holster holder includes the claimed features except for each of the two belt slots comprising adjustment means for adjusting the height and angle at which the belt passes through the slot.

Parsons, however, teaches that it is already known in the art to provide belt slots with adjustment means (54) that serve to change the length of the slots [0031]. It would have been obvious to one having ordinary skill in the art at the time the invention was

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made to also include adjustment means in the belt slots of the modified Rogers et al. holster holder, as taught by Parsons, so that a user could adjust the length of the belt slots to accommodate different sized belts, or to adjust the height and angle at which the belt passes through the slot. All of these functionally intended uses would be allowed by the presence of such adjustment means.

13. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al. ('640) in view of Parsons and Baker.

Rogers et al. disclose the claimed invention except for repositionable adjustment means in the belt slots and there being there being three belt receiving slots wherein two of the belt receiving slots are formed in a vertical manner such that one is above the other.

Parsons, however, teaches that it is already known in the art to provide belt slots with repositionable (removable = repositionable) adjustment means (54) that serve to change the length of the slots [0031]. Parsons also teaches that it is already known in the art to provide two belt slots arranged in a vertical manner on one side of a holster holder. Similarly, Baker teaches that it is old and well known in the art to provide three belt slots on a holster device, two of the belt slots being arranged in a vertical manner such that the holster can be held at various angles depending on which of the belt slots are used to support the holster on a belt. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include adjustment means in the belt slots of the Rogers et al. holster holder, as taught by Parsons, and to include three belt slots on the Rogers et al. holster holder, as taught by Baker, in order to

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increase the adjustability of the holster and allow the user to selective position the holster in a greater number of orientations.

14. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al. ('640) in view of Parsons and Nichols.

Rogers et al. disclose the claimed invention except for removable adjustment means in the belt slots and the three holster-attaching slots being arcuate such that the holster can rotate with respect to the plate, the lowest slot having a recurvate shape. Rogers et al. also fail to specifically state that screw fasteners are passed through the slots for attaching a holster to the plate.

Regarding the removable adjustment means, Parsons, teaches that it is already known in the art to provide belt slots with removable adjustment means (54) that serve to change the length of the slots [0031]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to also include adjustment means in the belt slots of the Rogers et al. holster holder, as taught by Parsons, so that a user could adjust the length of the belt slots to accommodate different sized belts, or to adjust the height and angle at which the belt passes through the slot. All of these functionally intended uses would be allowed by the presence of such adjustment means.

Regarding the arcuate slots and fasteners, Nichols discloses a holster holder comprising a plate with a series of slots and teaches that fasteners (screws 44) pass through the slots to attach a holster to the plate. Nichols also teaches that the slots (40,42) are arcuate such that the holster can rotate with respect to the plate. It would

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have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the modified Rogers et al. holster holder by forming the slots with an arcuate shape and attaching a holster to the plate with screws, as taught by Nichols, so that a user could rotate the holster with respect to the plate in order to adjust the angle at which a gun was held at their side. Regarding the lowest slot, Examiner considers the modified lowest slot of Rogers et al. to have a recurvate shape (see configuration #4 of paragraph 3 above).

15. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al. ('640) in view of Parsons and Baker as applied to claim 11 above, and further in view of Nichols.

The modified Rogers et al. holster holder includes the claimed features except for the three slots being arcuate such that the holster can rotate with respect to the plate, the lowest slot having a recurvate shape, and also fail to specifically state that screw fasteners are passed through the slots for attaching a holster to the plate.

Nichols, however, also discloses a holster holder comprising a plate with a series of slots and teaches that fasteners (screws 44) pass through the slots to attach a holster to the plate. Nichols also teaches that the slots (40,42) are arcuate such that the holster can rotate with respect to the plate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the modified Rogers et al. holster holder by forming the slots with an arcuate shape and attaching a holster to the plate with screws, as taught by Nichols, so that a user could rotate the holster with respect to the plate in order to adjust the angle at which a gun was held at their

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side. Regarding the lowest slot, Examiner considers the modified lowest slot of Rogers et al. to have a recurvate shape (see configuration #4 in paragraph 3 above).

Response to Arguments

16. Applicant's arguments with respect to the Rogers et al. ('045) reference as applied under 35 U.S.C 102 have been fully considered but they are not persuasive. Applicant has asserted that the slots of Rogers et al. are linear and are not arcuate or recurvate. Examiner is of the position that the slots all have rounded edges where the rounded edges can be considered arcuate or recurvate in shape, effectively making the slots themselves arcuate or recurvate. The edges of the slots resemble configuration #4 set forth in paragraph 3 above which can be considered either arcuate or recurvate. If the only difference between the holster of Rogers et al. and that of Applicant present invention is the shape of the three slots, then the slots of Applicant's invention must be defined very precisely in order to distinguish from those of Rogers et al. To say the slots are arcuate or recurvate is not precise enough to define over the slots of Rogers et al. Any slot with a rounded edge could be considered arcuate or recurvate based on the interpretation above.

17. Applicant's arguments with respect to the Parsons reference as applied under 35 U.S.C 102 have been fully considered but they are not persuasive. It appears as though Applicant has asserted that Parsons fails to disclose all of the claimed features. In paragraph 6 above, the features of the claims have been specifically related to corresponding structure found in Parsons. Applicant has asserted that Parsons teaches away from a holster holder for securing a holster to a wearer in a desired attitude.

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Examiner notes that the holster (22) of Parsons is varied in attitude when a belt is placed through various combination of the belt slots (48a,48b,50a,50b), effectively satisfying the limitations of the claim.

18. Applicant's arguments with respect to the combination of the Rogers et al. ('640) reference and the Nichols reference under 35 U.S.C 103 have been fully considered but they are not persuasive. Applicant has asserted that the reference cannot be combined because Rogers et al. ('640) teaches a non-adjustable holster and Nichols teaches an adjustable holster. Applicant has asserted that Rogers et al. ('640) teaches away from an adjustable holster. After further review of the Rogers et al. ('640) reference, Examiner notes that the intent of Rogers et al. ('640) was to provide a holster that did not move up or down or slide about a user's belt (see esp: abstract, lines 1-3, lines 15-17; col. 1 lines 51-61; col. 3 lines 51-57; col. 3 line 67 – col. 4 line 3; col. 4 lines 9-13). Rogers et al. ('640) was concerned with the movement of the entire holster holder about a user's belt, and not with the adjustment features of the holster on the holster holder itself. On the original holster holder of Rogers et al. ('640), the adjustment slots do not provide any rotational capabilities. Nichols teaches a way to allow a holster to rotate on a holster holder by providing arcuate slots on the holster holder. Forming the three slots of Rogers et al. ('640) in an arcuate shape, as taught by Nichols, increases the utility of the holster holder of Rogers et al. ('640) by allowing a user to select the most appropriate angle of the holster to their liking. The rotational capabilities of the modified Rogers et al. ('640) holster do not go against the original intent of Rogers et al. ('640), which was to prevent the holster from moving or sliding along a user's belt. The arcuate

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slots do not take away from this feature of the holster and do not go against the teachings of Rogers et al. ('640).

19. Applicant's arguments with respect to the combination of the Rogers et al. ('640), Nichols, and Beletsky references under 35 U.S.C 103 have been fully considered but they are not persuasive. Applicant has asserted that the addition of the Beletsky reference fails to overcome the deficiencies of the combined teachings of Rogers et al. ('640) and Nichols. Examiner considers this argument moot in view of the fact the combined teaches of Rogers et al. ('640) and Nichols have been properly combined and effectively satisfy the limitations of the claims as set forth above without deficiency.

20. Applicant's arguments with respect to the combination of the Rogers et al. ('640), Nichols, and Parsons references under 35 U.S.C 103 have been fully considered but they are not persuasive. Applicant has asserted that the addition of the Parsons reference fails to overcome the deficiencies of the combined teachings of Rogers et al. ('640) and Nichols. Examiner considers this argument moot in view of the fact the combined teaches of Rogers et al. ('640) and Nichols have been properly combined and effectively satisfy the limitations of the claims as set forth above without deficiency.

21. Applicant's arguments with respect to the combination of the Rogers et al. ('640), Nichols, Beletsky, and Baker references under 35 U.S.C 103 have been fully considered but they are not persuasive. Applicant has asserted that the addition of the Baker reference fails to overcome the deficiencies of the combined teachings of Rogers et al. ('640), Nichols, and Beletsky. Examiner considers this argument moot in view of the fact the combined teaches of Rogers et al. ('640), Nichols, and Beletsky have been

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properly combined and effectively satisfy the limitations of the claims as set forth above without deficiency.

22. Applicant's arguments with respect to the combination of the Rogers et al. ('640), Nichols, Beletsky, Baker, and Parsons references under 35 U.S.C 103 have been fully considered but they are not persuasive. Applicant has asserted that the addition of the Parsons reference fails to overcome the deficiencies of the combined teachings of Rogers et al. ('640), Nichols, Beletsky, and Baker. Examiner considers this argument moot in view of the fact the combined teaches of Rogers et al. ('640), Nichols, Beletsky, and Baker have been properly combined and effectively satisfy the limitations of the claims as set forth above without deficiency.

23. Applicant's arguments with respect to the combination of the Rogers et al. ('640), Parsons, and Baker references under 35 U.S.C 103 have been fully considered but they are not persuasive. Applicant has asserted that the adjustment means (54) of Parsons are not "repositionable" as required by the claims. Parsons discloses that the adjustment means are removable as they can be broken away to increase the length of the belt slots. Examiner is of the position that when the adjustment means are broken off or removed, they are effectively repositioned, as they are no longer in the place they started.

24. Applicant's arguments with respect to the combination of the Rogers et al. ('640), Parsons, and Nichols references under 35 U.S.C 103 have been fully considered but they are not persuasive. Applicant arguments with respect to these three references have already been collectively addressed in the responses above.

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25. Applicant's arguments with respect to the combination of the Rogers et al. ('640), Parsons, Baker, and Nichols references under 35 U.S.C 103 have been fully considered but they are not persuasive. Applicant arguments with respect to these three references have already been collectively addressed in the responses above.

Conclusion

26. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
3/22/07


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER